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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,670	11/07/2001	Sandra M. Tsontzidis	11227.00	7281

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DENVER, CO 80202-5647

EXAMINER

LEUNG, PHILIP H

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 12/29/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,670

Applicant(s)

TSONTZIDIS ET AL.

Examiner

Philip H Leung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 and 89-103 is/are pending in the application.
- 4a) Of the above claim(s) 26-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 89-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 9.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

1. It is noted that in the listing of the claims, the beginning of claim 12 is missing; the beginning part of claim 17 is redundant and should be deleted and claims 32 and 33 are missing. Clarification and correction are needed.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7-12, 16-19, 22-25, 89-92, 95 and 100-103 are rejected under 35 U.S.C. 102(b) as being anticipated by Kemske et al (US 5,350,904) (newly cited).

Kemske shows a microwave packaging material including a laminate material of a substrate and a microwave interactive material layer (see col. 5, lines 4-27). The packaging material includes cuts or score lines to form an indentation pattern for uniform heating result. See Figure 1; col. 3, lines 6-22 and col. 5, line 28 – col. 6, line 32. The various patterns shown in Figures 1, 7, 15, 16, 19, 21, 24 and 26-29 inherently include convex and concave channels for the claimed function of allowing movement of moisture.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 6, 13-15, 20, 21, 93, 94 and 96-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kemske et al (US 5,350,904), in view of Zeng et al (US 6,204,492) or Lai et al (US 5,698,127) (both previously cited).

Kemske shows a microwave packaging material including a laminate material of a substrate and a microwave interactive material layer (see col. 5, lines 4-27). The packaging material includes cuts or score lines to form an indentation pattern for uniform heating result. See Figure 1; col. 3, lines 6-22 and col. 5, line 28 – col. 6, line 32. The various patterns shown in Figures 1, 7, 15, 16, 19, 21, 24 and 26-29 inherently include convex and concave channels for the claimed function of allowing movement of moisture. It therefore shows every feature and function as claimed except for the use of a microwave reflective, shielding layer in the microwave interactive layer that is aluminum which is also a well known microwave shielding material. Anyway, Zeng shows an abuse-tolerant microwave food packaging material includes repeated sets of metallic foil or high optical density evaporated material segments (22) disposed on a substrate (34). Each set of metallic segments (22, 30, 40, 44, 62, 64, 66 etc.) is arranged to define a perimeter (such as 24, 32, 68) having a length equal to a predetermined ratio of the operating, or effective wavelength of a microwave oven. The repeated sets of segments act both as a shield to microwave energy and as focusing elements for microwave energy when used in conjunction with food products yet remaining electrically safe in the absence of the food products (see Figures 1-6 and col. 2, lines 25-63). Similarly, Lai shows a microwave food package material having similar claimed features as shown in Figures 2-8 and col. 4, line 15 - col. 6, line 65. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kemske to also include reflective shielding material to form an

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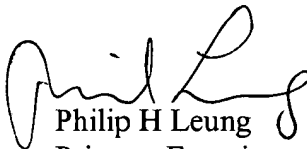
abuse-tolerant metallic pattern as the microwave interactive layer for better cooking result, in view of the teaching of Zeng or Lai. The various indentation patterns would have been engineering variations of the patterns shown in these references (see for example, Kemske, Figures 1, 7, 15, 16, 19, 21, 24 and 26-29).

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. The indication of allowance of claims 22-25 in the previous office action is hereby withdrawn in view of the newly discovered Kemske reference. Any inconvenience caused the applicant is sincerely regretted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (703) 308-1710. The examiner can normally be reached on flexible.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (703) 308-2634. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Philip H Leung
Primary Examiner
Art Unit 3742

P. Leung/pl
12/17/2003